THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11048 OF 2005

03.3.2006

Between:

Y.Suresh Kumar, S/o.Sitaram

… Petitioner

AND

Municipal Corporation of Hyderabad represented by its

Commissioner, Lower Tank Bund, Hyderabad

And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11048 OF 2005

ORDER:

The petitioner is tenant of the premises bearing No.21-5-388 to 399 and 400 to 405 situated at Puranapool, Hyderabad, where he is carrying on business of cycle taxi hiring. He alleges that the landlord of the premises is bent upon to evict the petitioner in forcible manner. On 03.5.2005 one Arjun Yadav @ Arjun Pehlwan brought some strangers who took measurements of the property. On enquiries, the petitioner came to know that the respondents issued notice dated 02.5.2005 to the landlord to submit objections for the proposed demolition of the building. The petitioner, therefore, filed the present writ petition apprehending demolition. He prays for writ of Mandamus declaring the action of the respondents in making preparation to demolish the premises bearing No.21-5-388 to 399 and 400 to 405 as illegal and arbitrary.

In the counter affidavit filed along with W.V.M.P.No.3160 of 2005, it is stated that during routine inspection it was found that the building is in dilapidated condition and the matter was referred to the Executive Engineer, Zone-II. After inspecting the same, the Executive Engineer submitted a report that the building is in dilapidated

condition and has to be removed immediately. Therefore, a notice under Section 459 of Hyderabad Municipal Corporations Act, 1955 (HMC Act, for brevity) was issued to the landlord, who did not submit any objection. Even before the issuance of the notice under Section 456 of HMC Act, the petitioner approached this Court and obtained interim orders.

Though the interlocutory applications are listed today, the matter was heard finally and is being disposed of by this order.

Learned Counsel for the petitioner submits that the building is not in dilapidated condition and in order to forcibly evict the petitioner, the landlord did not make any objection to the notice issued under Section 459 of HMC Act and she is behind the respondents.

Learned Standing Counsel for Municipal Corporation of Hyderabad (MCH) has placed before this Court the file relating to I.A.No.129 of 2005 in O.S.No.715 of 2005 on the file of the Court of the VIII Junior Civil Judge, City Civil Court. A perusal of the same would support various averments made in the counter affidavit. In the report submitted by the Executive Engineer, he submits that the Executive Engineer, Zone-II inspected the premises and observed that the over all structure of the premises is in dilapidated condition posing grave danger to inhabitants of the building. The matter was then placed before the Assistant City Planner Circle-II, who passed orders directing to issue notice under Section 459 of HMC Act by enclosing the report of the Executive Engineer Zone-II. When the Corporation was about to issue notice, the present writ petition is filed on mere apprehensions. Now that final notice is yet to be issued, as and when final notice is issued, the petitioner, as an occupant of the building, may raise all objections. As the writ petition is filed on mere apprehension, no relief can be granted.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

March 03, 2006

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